THE HON'BLE SRI JUSTICE C.V. RAMULU

Thursday, 19th October, 2006

W.P.Nos.13013 and 13352 of 2005

W.P.No.13013 of 2005

Between:

Mrs. A. Venkatamma … Petitioner

and

Revenue Divisional Officer,
Kandukur and others … Respondents

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.Nos.13013 and 13352 of 2005

COMMON ORDER:

W.P.No.13013 of 2005

This Writ Petition is filed seeking a Mandamus declaring the Notification No.R.C.F./982/2005, dated 7-5-2005 issued by the 1st respondent as arbitrary, illegal, unjust and violative of Articles 14 and 21 of the Constitution of India.

It is the case of the petitioner that she was appointed as a temporary dealer for the fair price shop of Ramachandrapuram village, Darsi Mandal, Prakasam District on 16-1-2003, since the original dealer Smt. B.Anjini Devi got married and staying elsewhere. She was discharging her duties to the satisfaction of the villagers as well as the revenue authorities without any remarks whatsoever. Smt.Anjini Devi belongs to Backward Class community and the fair price shop of Ramachandrapuram village was reserved for BC category. She also belongs to Backward Class community. While so, the 1st respondent issued the impugned notification calling for applications for filling up of the fair price shop of Ramachandrapuram village for general category (OC). According to the petitioner, this particular shop was all along reserved for BC category and the original dealer also belongs to BC. Further, the population of BCs is more in this village and hence, it was all along reserved for BCs. However, the 1st respondent, without following the guidelines for appointment of fair price shop dealers and without following the rule of reservation issued the impugned Notification calling for applications from general category instead of reserving it for BCs due to political reasons. Therefore, the action of the 1st respondent in issuing the impugned notification for filling up of the fair price shop dealership of Ramachandrapuram village for the general category is arbitrary and illegal.

A detailed counter affidavit has been filed by the 1st respondent

denying the allegations made by the petitioner and stating *inter alia* that in pursuance of the notification dated 7-5-2005 issued by the 1st respondent, two applicants belonging to OC category and two applicants belonging to BC category including the petitioner have applied for the fair price shop dealership of Ramachandrapuram village. Petitioner is not having requisite qualification i.e. pass in X Class and the other candidates have passed X Class. Knowing fully well that she is not eligible for being appointed as a fair price shop dealer, to frustrate the impugned notification, she filed the present Writ Petition. The families of various categories in Ramachandrapuram village are as under:

OC	85
BC	58
SC	86
ST	8
Minorities	14

Therefore, the contention of the petitioner that BC population is more than any other category and the shop in question is required to be reserved for BCs is not correct. Respondent No.1 has followed the guidelines issued by the Government for appointment of fair price shop dealers including SCs, STs, BCs, OCs etc. The notification for appointment of fair price shop dealer of Ramachandrapuram village was issued under General Category keeping in view the guidelines issued in G.O.Ms.No.53, dated 6-10-2003 and any candidate may apply for the said fair price shop. With regard to following of rule of reservation, the entire revenue division is taken as a unit and not the Mandal.

When this Court directed to file an additional counter affidavit as to the total number of vacancies existing in the Kandukur Division and also to furnish details of the vacancies that were earmarked for each category, such as, Scheduled Castes, Scheduled Tribes, Backward Classes, Physically Handicapped and others, how many of those vacancies have been filled up by notifying as of now and how the reservation of various categories is followed, whether it is by way of rotation of fixing a particular village permanently or otherwise, an additional counter affidavit has been filed on

behalf of the official respondents. In the additional counter affidavit, it is explained as under:

Sl. No.	Cate-gory	Percentage of reservation prescribed by Govt. as per G.O.Ms.No.53 at Division Level	The reser-vation has to be observed in the Division as per Govt. Orders	Permanent dealers existed as on 31.12.2004 (category-wise)	Permanent dealers appointed from 01.01.2005 to till date (category-wise)	Total permanent dealers	Bala-nce to be filled up by noti-fying the vaca-ncies
1	SC	15%	106	79	22	101	5
2	ST	6%	42	9	0	9	33
3	BC	25%	177	71	27	98	79
4	PHC	3%	21	8	9	17	4
5	Gene-ral cate-gory (OC)	51%	361	273	68	341	20
	Total		707	440	126	553	141

1	Total vacancies existing in Kandukur Division (as on 01.01.05)	:	267
2	No.of vacancies filled up so far	:	126
3	Vacancies that were e a r m a r k e d for each category, such as, OC/SC/ST/BC and PHC (against col.No.2)	:	SC : 22 ST : -- BC : 27 OC : 68 PHC : 9 **Total** : 126
4	How many vacancies filled up by notifying the vacancies	:	Out of 267 vacancies, 126 vacancies have been filled up by notifying the vacancies under category shown against Col.No.3

5	How the reservation of various categories is followed, whether it is by way of rotation or fixing a particular village/shop is allotted for a particular category and how long it will be continued	:	The rule of reservation is being observed treating Revenue Division as a unit and not the Mandal as per the guidelines issued in G.O.Ms.No.53, dt.06.01.03, but not rotation system or fixing the particular village/shop for a particular category.

Further, it is stated that Ramachandrapuram village was earmarked for general category keeping in view the guidelines issued in G.O.Ms.No.53, dated 6-10-2003.

Heard both sides and perused the entire material made available on record.

From the above, it is seen that G.O.Ms.No.53, dated 6-10-2003 was issued for strictly following the rule of reservation and the number of vacancies have been earmarked for each category of reservation including that of OC. It appears that the percentage of reservation of vacancies was followed as per G.O.Ms.No.53, dated 6-10-2003. May be, many a vacancy earmarked for BC category are still to be filled up, but that itself does not mean that all the vacancies available as on today shall be filled up only with BC candidates and Ramachandrapuram village must be reserved for BC category. In the very nature of the duties entrusted as an agent or licensee or by way of grant of authorization, they are subjected to renewal and further subjected to suspension or cancellation whenever required. In this view of the matter, it is not possible to declare a particular village for a particular period being reserved for BC candidates or for that matter any other category including OC. It seems, official respondents are filling up the vacancies as far as possible by allotting them to the reserved categories wherever necessary and feasible, after issuance of G.O.Ms.No.53, dated 6-10-2003. Therefore, it cannot be said, in the facts and circumstances of authorization system, the reservation shall be fixed for a particular period and that can be changed by rotation system. In fact, by following the guidelines issued in G.O.Ms.No.53, dated 6-10-2003, the authorities are trying to fill up as

many vacancies as possible by reserving them in respect of all the categories. As such, it takes some time for reaching the target by following the roaster system 100% to its full effect. Till such time, these abrasions are unavoidable. However, the official respondents shall fill up maximum number of left over vacancies earmarked for different categories in the immediate future vacancies, so that G.O.Ms.No.53, dated 6-10-2003 is given full effect. Coming to the merits of the present case, it seems, the petitioner has not qualified himself for being appointed as a fair price shop dealer, since she has not passed even SSC. The Writ Petition is devoid of merits and is liable to be dismissed.

Subject to the above observations, the Writ Petition is dismissed. No order as to costs.

W.P.No.13352 of 2005

For the very same reasons stated in Writ Petition No.13013 of 2005, this Writ Petition is also liable to be dismissed; accordingly, it is dismissed. No order as to costs

19-10-2006

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